



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 17, 2005

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room 600, at City Hall.

Present: Council Members - Campos, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales

Absent: Council Members - Chavez. (Excused)

Upon motion unanimously adopted, Council recessed at 9:03 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the case(s) of (1) County of Santa Clara, et al. v. City of San José, et al. (2) Smith v. City of San José et al. (B) to confer with Legal Counsel with respect to anticipated litigation pursuant to Government Code Section 54956.9 Subsection (b), to consider significant exposure in one (1) matter. (C) Conference with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) City Association of Management Personnel; (5) Association of Maintenance Supervisory Personnel.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:20 a.m. and reconvened at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chavez. (Excused)

INVOCATION

Mayra Oseguera, winner of the 1995 Cesar Chavez Essay Contest, read her essay "Yesterday I Cried". (District 5)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Reed, the Orders of the day and the Amended Agenda were approved. (8-0-2). Absent: Chavez, Cortese.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to San José Medical Coalition for its exemplary dedication and invaluable contribution to the San José community. (Mayor/Chavez) (Deferred from 5/3/05 – Item 1.9)**

Action: Deferred to May 24, 2005.

- 1.3 Presentation of proclamation declaring May 2005 as National Historic Preservation Month. (LeZotte)**

Action: Mayor Gonzales and Council Member LeZotte invited Stephen Polcyn, President of the Historic Landmarks Commission, and Justine Leon, to the podium. Council Member LeZotte declared May 2005 as “National Historic Preservation Month” in the City of San José. Mayor Gonzales presented the commendation to Mr. Polcyn recognizing the Committee’s dedication to increase community awareness of the past and to recognize the special presence of historic landmarks.

- 1.4 Presentation of a proclamation proclaiming the week of May 15-21, 2005 as Emergency Medical Services Week. (Fire)**

Action: Mayor Gonzales invited Fire Chief Jeff Clet to the podium to present him with a proclamation and to declare the week of May 15-21, 2005 as “Emergency Medical Services Week”, honoring the 750,000 emergency medical providers nationwide.

- 1.5 Presentation of a proclamation declaring the week of May 15-21, 2005 as Public Works Week. (Public Works)**

Action: Mayor Gonzales invited Director of Public Works Katy Allen, Director of Environmental Services Carl Mosher, Assistant Director Department of Transportation Jim Ortbal, and Deputy Director General Services Anna Jatczak, to the podium. Mayor Gonzales presented a proclamation declaring the week of May 15-21, 2005 as “Public Works Week”, and recognizing all the hard work, dedication and commitment of the Public Works employees in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Reed, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-1. Absent: Chavez.)

- 2.2 (a) **ORD. NO. 27420 – Rezoning certain real property situated at the southeast corner of Great Oaks Boulevard and Via Del Oro (100 Great Oaks Boulevard) to A(PD) Planned Development Zoning District. PDC05-018**

Documents Filed: Proof of Publication of the title of Ordinance No. 27420 executed on May 10, 2005, submitted by the City Clerk.

Action: Ordinance No. 27420 was adopted. (9-0-1. Absent: Chavez.)

- (b) **ORD. NO. 27421 – Rezoning certain real property situated at 1180-1184 Campbell Avenue, on the northeasterly side of Campbell Avenue, approximately 1,000 feet northwesterly of Newhall Street in the City of San José to A(PD) Planned Development Zoning District. PDC04-068**

Documents Filed: Proof of Publication of the title of Ordinance No. 27421 executed on May 10, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, Ordinance No. 27421 was adopted. (9-0-1. Absent: Chavez.)

- (c) **ORD. NO. 27422 – Rezoning certain real property situated on the west side of Richmond Avenue approximately 150 feet north of Scott Street to R-1-8 Residential Zoning District. C05-011**

Documents Filed: Proof of Publication of the title of Ordinance No. 27422 executed on May 10, 2005, submitted by the City Clerk.

Action: Ordinance No. 27422 was adopted. (9-0-1. Absent: Chavez.)

- (d) **ORD. NO. 27423 – Rezoning certain real property situated on the south side of Bailey Avenue, 150 feet westerly of North Bascom Avenue (2216 Bailey Avenue) to R-1-8 Residence Zoning District. C05-016**

Documents Filed: Proof of Publication of the title of Ordinance No. 27423 executed on May 10, 2005, submitted by the City Clerk.

Action: Ordinance No. 27423 was adopted. (9-0-1. Absent: Chavez.)

- (f) **ORD. NO. 27424 – Rezoning certain real property situated on the west side of Dent Avenue, approximately 320 feet southerly of Branham Lane (4965 Dent Avenue) to A(PD) Planned Development Zoning District. PDC04-080**

Documents Filed: Proof of Publication of the title of Ordinance No. 27424 executed on May 10, 2005, submitted by the City Clerk.

Action: Ordinance No. 27424 was adopted. (9-0-1. Absent: Chavez.)

- 2.3 Adoption of a resolution approving amendments to the project selection system for the City's affordable housing development program to:**
- (a) Add senior, adaptive re-use, and acquisition/rehabilitation developments as eligible housing projects;**
 - (b) Add as an additional application threshold a requirement that a minimum percentage of the units in each project be affordable to extremely low-income households; and**
 - (c) Convert from a funding-round process to an over-the-counter application process. CEQA: Not a Project. SNI: All. (Housing)**
- (Deferred from 5/3/05 – Item 2.6)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated April 13, 2005, recommending adoption of a resolution.

Public Comment: Saul Wachter, Affordable Housing Network, spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Campos, seconded by Council Member Yeager and carried unanimously, Resolution No. 72668, entitled: "A Resolution of the Council of the City of San José Approving Revisions to the Project Selection System for the City's Affordable Housing Development Plan", was adopted. (9-0-1. Absent: Chavez.)

- 2.4 Approval of an agreement with Carter & Burgess Inc. for consultant services to develop and deploy the ProjectWise Software Program to integrate the Airport's Standards and Procedures for Computer Aided Design and Drafting; Airport Specific Surveying, and to create an intranet accessible Record Drawing Repository at the Norman Y. Mineta San José International Airport for the period June 1, 2005 to June 1, 2006 in a total amount not to exceed \$240,000. CEQA: Resolution Nos. 67380 and 71451, PP 05-081. (Airport/Information Technology/Public Works)**

Documents Filed: Memorandum from Director of Aviation William Sherry, Director of Transportation James Helmer, and Director of Public Works Katy Allen, dated May 12, 2005, recommending approval of the agreement.

Action: The agreement was approved. (9-0-1. Absent: Chavez.)

- 2.5 Approval of a first amendment and continuation agreement to extend the term of the lease of Airport Premises with ACM Aviation Services, LLC for employee vehicle parking located at 1455 Airport Boulevard from March 1, 2005 to June 30, 2007 with annual rent payable to the City in the amount of \$19,494. CEQA: Resolution Nos. 67380 and 71451, PP05-052. (Airport)**

Documents Filed: Memorandum from Assistant Director of Aviation Frank Kirkbride, dated April 29, 2005, recommending approval of a First amendment and Continuation agreement.

2.5 (Cont'd.)

Action: The First Amendment and Continuation Agreement were approved. (9-0-1. Absent: Chavez.)

2.6 Adoption of the following 2004-2005 Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Projects Fund (City-Side Redevelopment Fund):

- (a) Increase the appropriation to the Department of Transportation for the Spartan Keyes Traffic Calming (PSM 350#1) by \$33,800.
- (b) Establish an appropriation to the Department of Convention, Arts and Entertainment for the Starbird Teen Center Public Art Project (PSM 408) in the amount of \$12,910.
- (c) Increase the estimate for Earned Revenue by \$46,710.

CEQA: Not a Project. Council Districts 1 and 3. SNI: Blackford and Spartan/Keyes. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated April 27, 2005, recommending adoption of appropriation ordinance and funding sources resolution.

Action: Ordinance No. 27433, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Sparkan Keyes Traffic Calming Project and the Starbird Teen Center Public Art Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72669, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (9-0-1. Absent: Chavez.)

2.7 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with artist Ray King to fabricate and install a public artwork at the Almaden Branch Library and Community Center, in an amount not to exceed \$155,000. CEQA: Exempt, PP03-11-367. (Cultural Affairs)

Documents Filed: Memorandum from Deputy Director of Office of Cultural Affairs Jerry Allen, dated April 27, 2005, recommending adoption of a resolution.

Action: Resolution No. 72670, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Ray King DBA Ray King Studio LTD. For a Work of Art for the Almaden Branch Library and the Community Center in an Amount Not To Exceed \$155,000", was adopted. (9-0-1. Absent: Chavez.)

- 2.8 Approval of the San José Arena Authority Board's recommended changes to the funding criteria of the City and Community Events Policy for the use of HP Pavilion at San José under the City and Community Events Program, to increase participation and variety of uses under the program. CEQA: Not a Project. (Economic Development/San José Arena Authority)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated April 27, 2005, recommending approval of the changes to the funding criteria of the City and Community Events Policy for the use of the HP Pavilion.

Action: The funding criteria and use was approved. (9-0-1. Absent: Chavez.)

- 2.9 Approval to use the HP Pavilion at San José for 4 middle school graduations and 1 high school graduation on three Community Event Dates (June 8, 14 and 17) that will receive 100% program funding in an amount not to exceed \$16,000 per event date for a total not to exceed amount of \$48,000. CEQA: Not a Project. (Economic Development/San José Arena Authority)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated April 27, 2005, recommending approval for the three community event dates.

Action: The Community Event Dates were approved. (9-0-1. Absent: Chavez.)

- 2.10 Approval of the sole source purchase of an Allis Chalmers Rotating Assembly, for the Water Pollution Control Plant, from ITT A-C Pump (formerly Allis-Chalmers Pump Company), a division of ITT Industries Inc., for a total not to exceed \$211,575 including tax and delivery; and authorization for the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated April 26, 2005, recommending approval of the sole source purchase. (2) Letter from the Treatment Plant Advisory Committee, dated May 12, 2005, stating concurrence with the Staff recommendation.

Action: The sole source purchase was approved. (9-0-1. Absent: Chavez.)

- 2.11 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (1) Increase the revenue estimate for Revenue from the Federal Government by \$175,000.**
 - (2) Establish a City-wide appropriation to the City Manager's Office in the amount of \$100,540 for the San José Weed and Seed Program.**
 - (3) Establish a City-wide appropriation to the Police Department in the amount of \$74,460 for the San José Weed and Seed Program.**

Item continued on the next page

- 2.11 (b) Adoption of a resolution authorizing the City Manager to apply to the United States Department of Justice for second year Weed and Seed Program funding for the San José neighborhood in an amount not to exceed \$225,000 for the period of October 1, 2005 through September 30, 2006, to accept the grant if awarded, and to execute all related documents.**

CEQA: Not a Project. Council Districts 5 and 8. SNI: East Valley/680 Communities and KONA. (City Manager's Office/Police)

Documents Filed: Memorandum from Deputy City Manager Jim Holgersson, Police Chief Robert Davis, and Budget Director Larry Lisenbee, dated May 5, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, Ordinance No. 27434, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the San José Weed and Seed Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72671, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", and Resolution No. 72672, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Apply to the United States Department of Justice for Second Year Weed and Seed Program Funding for the San José Neighborhood in an Amount Not To Exceed \$225,00, To Accept the Grant if Awarded, and To Execute All Related Documents", were adopted, with (1) Staff requested to ensure that the name of the SNI East Valley 680/Community" is reflected accurately on all Council memorandums, documents and correspondence and (2) Staff directed to provide an information memorandum describing community outreach efforts for the Weed and Seed Program. (9-0-1. Absent: Chavez.)

- 2.12 Adoption of a resolution of intention to vacate a portion of Piercy Road immediately south of Silver Creek Valley Road, reserving an emergency access easement, a storm drain easement, a roadway easement, an aerial easement and a rip-rap easement, and setting a public hearing on June 7, 2005 at 1:30 p.m. CEQA: Resolution No. 70021. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 27, 2005, recommending adoption of a resolution.

Action: Resolution No. 72673, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate Portions of Piercy Road Immediately South of Silver Creek Valley Road, Reserving a Storm Drain Easement, Rip Rap Easement, Roadway Easement, Aerial Easement, and Emergency Access Easements", was adopted. (9-0-1. Absent: Chavez.)

- 2.13 Report on bids and award of contract for the New City Hall's File Storage Project to the low bidder, Systems & Space, Inc., in the amount of \$105,560, and approval of a contingency in the amount of \$10,500. CEQA: Resolution No. 68905, PP98-03-072. SNI: University. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 27, 2005, recommending award of the contract.

Action: The contract was approved. (9-0-1. Absent: Chavez.)

- 2.14 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Increase the appropriation to the Department of Public Works for the Mayfair Streetlights Project (PSM 359) by \$226,600.**
 - (2) Increase the estimate for Earned Revenue by \$226,600.**
- (b) Report on bids and award of contract for the Street Lights SNI Mayfair Phase 2 Project to the low bidder, Pacific Electric Company, in the amount of \$162,577.50, and approval of a contingency in the amount of \$16,250. CEQA: Exempt, PP01-02-023. Council District 5. SNI: Mayfair. (Public Works/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated April 27, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments, and award of the contract. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated May 16, 2005, transmitting additional information.

Action: Ordinance No. 27435, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Mayfair Streetlights Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72674, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted, and the award of the contract was approved. (9-0-1. Absent: Chavez.)

- 2.15 Approval of Mayor Gonzales' travel to Washington, D.C., from May 21 through May 26, 2006, to attend the Silicon Valley Leadership Group's Washington, D.C., Advocacy Trip and BART-to-San José meetings. Funding Source: Officeholder Account. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated May 11, 2005, requesting approval of travel.

Action: The Mayor's travel request was approved. (9-0-1. Absent: Chavez.)

2.16 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors and the SVWIN Youth Committee. (Mayor)

Documents Filed: Memorandum from Mayor Gonzales, dated May 9, 2005, recommending approval of the nominations.

Action: The nominations were approved. (9-0-1. Absent: Chavez.)

2.17 Acceptance of a gift of funds and approval of Vice Mayor Chavez's travel to Washington, D.C., from May 15 through May 17, 2005, to attend as the City of San José representative at the 2005 Access Washington D.C. trip. Funding Source: Silicon Valley Chamber of Commerce and Mayor/Council travel funds. (Chavez)

Documents Filed: None.

Action: Acceptance of a gift of funds and Vice Mayor Chavez's travel were approved. (9-0-1. Absent: Chavez.)

2.18 Approval of an ordinance of the City of San José repealing Section 3.28.220 and amending Sections 3.28.200 and 3.28.340 of Chapter 3.28 of Title 3 of the San José Municipal Code to simplify the system of reserves in the Federated City Employees Retirement Fund. CEQA: Not a Project. (Retirement Services) (Rules-in-lieu referral 5/11/05)

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated May 11, 2005, recommending approval of an ordinance.

Action: Ordinance No. 27436, entitled: "An Ordinance of the City of San José Repealing Section 3.28.220 and Amending Sections 3.28.200 and 3.28.340 of Chapter 3.28 of Title 3 of the San José Municipal Code to Simplify the System of Reserves in the Federated City Employees Retirement Fund", was passed for publication. (9-0-1. Absent: Chavez.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – May 4, 2005
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report dated May 4, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

3.2 Report of the Rules Committee – May 4, 2005 (Cont'd.) Vice Mayor Chavez, Chair

(b) City Council

(1) Review May 17, 2005 Council Agenda

The Committee recommended approval of the May 17, 2005 City Council Agenda with four additions. Attachments: (1) Memorandum from Council Member Reed, dated May 2, 2005, requesting resolution for support for recognition of the flag of the former Republic of Vietnam. (2) Memorandum from Council Member Cortese, dated May 2, 2005, recommending adoption of a support position on SCR 17 (Ducheny).

- (a) Resolution recognizing Vietnamese Heritage and Freedom Flag
See Item 3.5 for Council Action Taken.

(2) Add New Items to May 10, 2005 Agenda

The Committee recommended approval of six additions to the May 10, 2005 City Council Agenda.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager dated May 3, 2005, transmitting reports outstanding for May 10, 2005.

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State - There was no report.

- (a) Senate Concurrent Resolution 17 (Ducheny)
See Item 3.6 for Council Action Taken.

(2) Federal - There was no report.

(d) Meeting Schedules

- (1) Rules-in-Lieu Schedule for May 11, and 18, 2005. Attachment: Memorandum from City Clerk Lee Price, dated April 29, 2005, recommending Rules-In-Lieu meetings.

The Committee recommended the above scheduled dates for the Rules-in-Lieu meetings at 11:30 a.m. in the Office of the City Clerk.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 28, 2005, transmitting items for public record and administration for the period of April 20-26, 2005.

The Committee noted and filed the Public Record.

3.2 Report of the Rules Committee – May 4, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

(f) Appointments to Boards, Commissions and Committees

- (1) Historic Landmarks Commission. Attachment: Memorandum from Council Member Linda Lezotte, dated April 15, 2005, recommending Michael Youmans.

(a) Re-appoint one Commissioner

The Committee recommended the re-appointment of incumbent Michael Youmans to a term ending June 30, 2008.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approval Request to Use \$1,000 from the District 8 Community Gift Trust Fund. Attachment: Memorandum from Council Member Cortese, dated April 22, 2005, requesting approval to use monies from District 8 Community Gift Trust Fund.

The Committee recommended approval to use the existing \$1,000 from the District 8 portion of the Gifts Trust Fund (under The Day in the Park Account) for the Canyon Creek Park Grand Opening Celebration.

- (2) City Auditor's Response to a Rules Committee Referral regarding an Audit of Police and Fire Disability Retirement Issues. Attachment: Memorandum from City Auditor Gerald Silva, dated April 26, 2005, regarding an Audit of Police and Fire Disability Retirement Issues.

The Committee accepted the report adding an audit of the Police and Fire Disability Retirement Issues.

(h) Oral Communications - None were presented.

(i) Adjournment - The meeting was adjourned at 2:36 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, the Report of the Rules Committee and the actions of May 4, 2005, were accepted. (9-0-1. Absent: Chavez.)

See Page 21 for 3.4.

See Page 22 for 3.5.

See Page 23 for 3.6

- 3.7 (a) Approval of a Microsoft Select License Agreement for State and Local Government (“Select Agreement”), a cooperative agreement between the State of California and Microsoft Licensing GP (“Microsoft”) for three years for advantage pricing of Microsoft software products as may be required by the City.**
- (b) Report on Request for Quote for authorized resellers for the Select Agreement and award of purchase order to PC Mall Gov, the lowest quotation, and authorizing the Director of Finance to:**
- (1) Execute purchase order for Microsoft software products with PC Mall Gov Inc. as the Microsoft Reseller for an initial purchase in the amount of \$1,391,100, which includes sales tax, and for additional purchases of Microsoft licenses on an as-required basis for a period of twelve months after the initial award is placed without further Council action other than the appropriation of funds.**
 - (2) Exercise two one-year options to execute the annual purchase orders, for a total of three years without further Council action other than the appropriation of funds in order to be consistent with the term of the Select Agreement.**

CEQA: Not a Project. (Finance/Information Technology)

Documents Filed: Memorandum from Director of Finance Scott Johnson, and Interim Director Information Technology James Helmer, dated May 9, 2005, recommending approval of the contract.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the contract was approved. (9-0-1. Absent: Chavez.)

- 3.8 Approval to name a new community center located at the 3707 Williams Road (corner of Williams and Boyton) as the “West San José Community Center”, as recommended by the Parks & Recreation Commission. (City Clerk)**
(Orders of the Day)
(Deferred from 5/10/05 – Item 3.7)

Documents Filed: Memorandum from City Clerk Lee Price, dated May 5, 2005, recommending approval of the community center name.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, the name for the West San José Community Center was approved. (9-0-1. Absent: Chavez.)

- 3.9 Council discussion of recommendation to unfreeze Mayoral and Council Office Staff salaries beginning in FY2005-2006. (LeZotte/Yeager)**
(Deferred from 5/10/05 – Item 3.4)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated May 5, 2005, transmitting options available to the Council with regard to the Commission’s recommendations. (2) Memorandum from the Salary Setting Commission, dated April 26, 2005, recommending adoption of the ordinance.

3.9 (Cont'd.)

Discussion: City Manager Del Borgsdorf and Policy Office Director Joe Guerra responded to Council questions. A brief discussion ensued.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Pyle, and carried unanimously, the Mayor and Council Members' full authority to spend their discretionary budgets was restored by removing the mandatory freeze on Council Assistant salaries that was instituted in March 2003. (9-0-1. Absent: Chavez.)

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.4 (a) **Approval of an ordinance amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code (SJMC) to extend the period during which the City suspends the collection of Building and Structure Construction Taxes imposed for the construction of special industrial use research and development and office tenant improvements.**
- (b) **Approval of an ordinance amending Section 4.46.039.9 of 4.46 of Chapter 4.46 of Title 4 of the San José Municipal Code (SJMC) to extend the period during which the City suspends the collection of Building and Structure Construction Taxes imposed for the construction of office use tenant improvements in the Downtown Core.**
- (c) **Direction to staff to extend the Coordinated Plan Check Review process allowing for plan check fee collection deferral until permit issuance for tenant improvements in vacant office buildings within the Downtown Core and in vacant industrial and research offices throughout San José.**

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated April 29, 2005, recommending approval of the ordinances and direction to Staff. (2) Supplemental memorandum from Director of Economic Development Paul Krutko, dated May 11, 2005, correcting the proposed expiration date.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27437, entitled: "An Ordinance of the City of San José Amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code to Extend the Period of Suspension of Collection of the Building and Structure Construction Tax for the Construction of Special Industrial Use Tenant Improvements", and Ordinance No. 27438, entitled: "An Ordinance of the City of San José Amending Section 4.46.039.9 of Chapter 4.46 of Title 4 of the San José Municipal Code to Extend the Period of Suspension of Collection of the Building and Structure Construction Tax for the Construction of Office Use Tenant Improvements in the Downtown Core", were passed for publication, and the direction to Staff was approved. (9-0-1. Absent: Chavez.)

- 4.5 Approval of the Purchase and Sale Agreement and adoption of a resolution authorizing the Director of Public Works to accept the deed and execute all documents related to the purchase of a portion of the property owned by The Roman Catholic Bishop of San José, located at 5950 Cahalan Avenue, for a purchase amount of \$800,800, which includes closing costs. CEQA: Mitigated Negative Declaration, PP05-071. Council District 10. (Public Works/Fire)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Fire Chief Jeffrey Clet, dated April 27, 2005, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72681, entitled: "A Resolution of the Council of the City of San José Approving the Purchase and Sale Agreement with the Roman Catholic Bishop of San José for the Acquisition adopted. (9-0-1. Absent: Chavez.)

- 4.6 (a) Require the installation of stormwater treatment control measures in new and redevelopment projects of 10,000 square feet, which create, replace or add 10,000 square feet or more of impervious surface and in a "Land Uses of Concern," or require a permit or other direct approval from the RWQCB;**
- (b) Expand the definition of "Land Uses of Concern" to include:**
- (1) Gas stations;**
 - (2) Auto wrecking yards;**
 - (3) Loading docks and surface parking lots containing 10,000 square feet or more of impervious surface area;**
 - (4) Other land uses which generate amounts of pollutants equivalent to the above uses if pollutant loading cannot be satisfactorily mitigated through other post-construction source control best management practices, such as:**
 - (a) Vehicle or equipment maintenance areas, including washing and repair;**
 - (b) Outdoor handling or storage of waste or hazardous materials;**
 - (c) Outdoor manufacturing areas;**
 - (d) Outdoor food handling or processing;**
 - (e) Outdoor animal care area;**
 - (f) Outdoor horticultural activities;**
 - (g) Various other heavy industrial and commercial uses that are determined to have a greater potential to contribute high levels of pollutant loading during the Development and/or Environmental Review process; and**
- (c) Make a technical correction in the "Urban Core" definition related to the required proximity to a BART transit node.**

CEQA: Exempt, PP05-012. (Planning, Building and Code Enforcement)
(Deferred from 4/19/05 – Item 4.3 et al and 5/10/05 – Item 4.5)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 8, 2005, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 12, 2005, transmitting additional information.

4.6 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, Resolution No. 72675, entitled: "A Resolution of the Council of the City of San José Approving a City Council Policy Revising Requirements Related to the Control of Stormwater Runoff from New and Redevelopment Projects", was adopted. (9-0-1. Absent: Chavez.)

4.7 Approval of direction to the City Manager to schedule the 2005 "Getting Families Back to Work" study session in late October for two days that will focus on the development process and streamlining it. (Mayor)

Documents Filed: Memorandum from Mayor Gonzales, dated May 13, 2005, directing City Manager to schedule two study sessions for "Getting Families Back to Work".

Action: Upon motion by Council Member Pyle, seconded by Council Member Reed, and carried unanimously, the Study Session dates in October 2005 were approved, with Staff directed to share results from the past two years. (9-0-1. Absent: Chavez.)

RECREATION & CULTURAL SERVICES

5.2 Adoption of a resolution recognizing the historical significance of 99 Notre Dame Avenue, supporting the concept of creating a museum at the site featuring its history, and directing and authorizing the City Manager to participate in collaborative discussions regarding this museum proposal. (Chavez) (Rules Committee referral 5/4/05)

Documents Filed: Replacement memorandum from Historic Landmarks Commission Secretary Stephen Haase, dated May 11, 2005, recommending adoption of a resolution.

Public Comment: Al Hoagland, Roger Hoyt, and David Bennett spoke in favor of the Staff recommendation.

Discussion: Staff responded to brief questions. Council Member LeZotte encouraged Staff to collaborate with the tenant (County of Santa Clara). Council Member Williams spoke in favor of the recommendation.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, Resolution No. 72676, entitled: "A Resolution of the Council of the City of San José Supporting the Pursuit of a Museum at 99 Notre Dame Avenue Featuring the History of the Site and Authorizing the City Manager to Participate in Collaborative Discussions Regarding this Proposal", was adopted, with Staff requested to include the County, the current long-term tenant of that property, in the collaborative discussions. (9-0-1. Absent: Chavez.)

- 5.3 (a) **Public hearing on Staff recommendations regarding the proposed amendments to the approval of an ordinance amending the Parkland Dedication Ordinance and Park Impact Ordinance, Chapters 19.38 and 14.25, respectively, of the San José Municipal Code, to incorporate additions for types of parkland and improvements accepted for dedication and to clarify certain definitions.**
- (b) **Adoption of associated Parkland Dedication Ordinance/Park Impact Ordinance Fee Resolution to incorporate changes with respect to the granting of credit for recreation facilities and dedicated parkland.**

CEQA: Not a Project. SNI: Washington. (Parks, Recreation and Neighborhood Services)

Action: Deferred to June 7, 2005; to be heard in the evening.

- 5.4 (a) **Report on bids and award of contract for the Bellevue Park Project to the low bidder, HRB Construction, Inc., for the base bid in the amount of \$1,067,464, and approval of a contingency in the amount of \$53,373.**
- (b) **Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-wide Redevelopment Fund):**
- (1) **Increase the appropriation to the Public Works Department for Bellevue Park Master Plan (Design Phase) (PSM 246 #1) in the amount of \$1,262,808.**
- (2) **Increase the estimate for Earned Revenue by \$1,262,808.**
- (c) **Adoption of a resolution approving the Bellevue Park Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.**

CEQA: Mitigated Negative Declaration, PP03-09-289. Council District 7. (Public Works/ Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated April 13, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments, and approval of the contract.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the contract was approved and Ordinance No. 27439, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Bellevue Park Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72677, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 72678, entitled: "A Resolution of the Council of the City of San José Approving the Bellevue Avenue Park Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", were adopted. (9-0-1. Absent: Chavez.)

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – May 2, 2005 Council Member Campos, Chair

Documents Filed: The Building Better Transportation Committee Report, dated May 2, 2005.

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Receive Report from Caltrans on Regional Transportation Issues

The Committee received the report.

- (2) Recommendations on Santa Clara/Alum Rock Transit Mode Choice. Attachment: Memorandum from Director of Transportation James Helmer, dated April 22, 2005, transmitting the report.

The Committee accepted the report.

- (3) Report on San José Transportation Needs and Funding Alternatives. Attachment: Memorandum from Director of Transportation James Helmer, dated April 22, 2005, transmitting the report.

The Committee accepted the report.

- (4) Status Report on Downtown Special District Development

Deferred to June 6, 2005

- (5) Report on BART Extension to San José/Silicon Valley. Attachment: Memorandum from Director of Transportation James Helmer, dated April 22, 2005, transmitting the report.

The Committee accepted the report.

- (b) Traffic Relief/Safe Streets
 - (1) Financial Impact of Crossing Guard Safety Index Changes. Attachment: Memorandum from Director of Transportation James Helmer, and Police Chief Robert Davis, dated April 22, 2005, transmitting the report.

The Committee accepted the report, with Staff directed to incorporate Council Member Cortese's previous motion (a)(5).

- (c) Supporting Smart Growth
 - (1) Follow Up Report and Discussion of Developer Nexus for Street Resurfacing Funding and Other Funding Options.

Heard with Item (a)(3).

**6.1 Report of the Building Better Transportation Committee – May 2, 2005 (Cont'd.)
Council Member Campos, Chair**

- (d) Regional Relationships/Funding/Policy - There were no items.
- (e) Oral Petitions - There were none.
- (f) Adjournment - The meeting was adjourned at 3:50 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, The Report of the Building Better Transportation Committee and the Actions of May 2, 2005, were accepted. (9-0-1. Absent: Chavez.)

6.2 (a) Approval of an ordinance to temporarily limit until April 30, 2006, both:

- (1) The total number of taxicabs all taxicab company licensees are authorized to operate under their licenses pursuant to Part 4 of Chapter 6.64 of the San José Municipal Code to an outstanding number of 572; and
- (2) The total number of taxicab driver permits issued pursuant to Part 4 of Chapter 6.64 of the San José Municipal Code to an outstanding number of 571.

CEQA: Not a Project. (Transportation)

(b) Adoption of the revised Taxicab Rate Resolution, repealing Resolution No. 71336, which will allow taxicab companies to offer:

- (1) Discount coupons of up to 20% off their standard fares for trips not originating at the Airport; and
- (2) Flat rates, which are below the standard fare, for all business account trips and to the general public for trips outside of Santa Clara County.

CEQA: Not a Project. (Transportation)

(c) Adoption of resolutions to:

- (1) (a) Authorize the City Manager to negotiate and execute an agreement with Taxi San José Inc. for on-demand ground transportation dispatching services at the Norman Y. Mineta San José International Airport for the period August 1, 2005 to July 31, 2007 with five one-year options to extend the term at the City's sole discretion for a total of up to seven years, in an amount not to exceed \$4,800,000 for the initial two-year term.
- (b) In the event that the parties have not completed negotiations and executed an agreement within 30 days of the date of the resolution authorizing the negotiation and execution, authorizing the City Manager to terminate negotiations with Taxi San José, Inc. and commence to negotiate and execute an agreement with ShuttlePort California LLC for on-demand ground transportation dispatching services at the Norman Y. Mineta San José International Airport for the period August 1, 2005 to July 31, 2007 with five one-year options to extend the term at the City's sole discretion for a total of up to seven

years, in an amount not to exceed \$2,250,000 for the initial two-year term.

6.2 (c) Adoption of resolutions to: (Cont'd.)

- (2) To establish fees for on-demand ground transportation dispatch services to be charged to ground transportation providers at the Norman Y. Mineta San José International Airport.

CEQA: Resolution Nos. 67380 & 71451, PP05-083. (Airport/Transportation)

Action: Deferred to 5/24/05.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9630	Southeast Corner of Neal Avenue and Winchester Boulevard	6	American Equity Builders	20 Units	Townhome	Approve

OPEN FORUM

- (1) William Garbett expressed his concerns regarding serious health consequences because of the use of recycled water.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:19 p.m.

RECESS/RECONVENE

The City Council recessed at 2:19 p.m. from the City Council afternoon session and reconvened at 7:07 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chavez. (Excused)

CEREMONIALS

- 1.2 Presentation of a commendation to Andy Cook, an 11 year old Almaden Valley resident, who single-handedly raised \$3,700 for the American Red Cross for the Tsunami Aid Relief. (Pyle)**
(Rules Committee referral 4/27/05)

Action: Mayor Gonzales and Council Member Pyle recognized and commended Andy Cook, an eleven year old student, Almaden Holy Family School, who donated \$100 of his own money, and single handedly raised a total of \$3,700 for the Tsunami Aid Relief.

- 1.6 Presentation of commendations to Renew CSU and Kilen Gilpen for their efforts to bring renewable energy to San José State University. (LeZotte)**
(Rules Committee referral 5/4/05)
(Deferred from 5/10/05 – Item 1.4)

Action: Mayor Gonzales and Council Member LeZotte invited Aime Frisch, Sarah Hackett, and Kilen Gilpen, to the podium. Mayor Gonzales presented a commendation the team recognizing the efforts of Renew CSU for bringing energy policies and encouraging students to use clean sustainable energy, and a commendation to Kilen Gilpen for her leadership in empowering the San José State University Students concerning renewable energy, including the negative impacts of campus energy practices that do not take greater advantage of sustainable energy practices.

- 1.7 Presentation of a commendation to Chris Witte, for his exemplary service to the community and the YMCA. (LeZotte)**
(Rules Committee referral 5/11/05)

Action: Mayor Gonzales and Council Member LeZotte invited Chris Witte and his mother Roberta Witte, to the podium. Mayor Gonzales presented a commendation to Chris Witte for his service to the community and the YMCA, as a dedicated volunteer and an exemplary leader. Council Member LeZotte mentioned Mr. Witte would shortly be named as the YMCA's 2005 Teen Volunteer of the Year.

**1.8 Presentation of a commendation to Ashoorina Youabb and Officer Joaquin Barreto for their courageous work on behalf of the family of Cesar Sanchez, who had left his Soreno gang before his untimely death. (Pyle)
(Orders of the Day)**

Action: Mayor Gonzales, and Council Members Pyle and Yeager recognized and commended Officer Joaquin Barreto for his efforts to teach gang members and their families about the hazards of gang life, providing expert guidance to community organizations. Mayor Gonzales presented the commendation to Officer Barreto, who accepted on behalf of his team and colleagues. Mayor Gonzales presented a commendation to Ashoorina Youabb for her continued good work with the Sanchez family. Carmen Sanchez, wife of the late Cesar Sanchez and their daughter Diane, were also present.

**1.9 Presentation of a commendation to the San José Jr. Sharks for their skill, motivation and determination to do their best in sports and education. (Chavez)
(Orders of the Day)**

Action: Mayor Gonzales and Council Member Campos, on behalf of Vice Mayor Chavez, presented a commendation to the San José Jr. Sharks for their outstanding skill, motivation and determination to do their best in sports and education.

**1.10 Presentation of a commendation to Friends of Evergreen Library Board of Directors for its exemplary dedication and invaluable contribution to the San José community. (Cortese/Mayor)
(Orders of the Day)**

Action: Mayor Gonzales and Council Member Cortese recognized the Friends of Evergreen Library Board of Directors, the City Program “Good Neighbor Award” winners for their exemplary dedication and invaluable contributions to the City of San José in District 8.

STRATEGIC SUPPORT SERVICES

3.4 Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year July 1, 2005 to June 30, 2006, the Proposed Five-Year Capital Improvement Program for 2006-2010, and the Proposed Fiscal Year 2005-2006 City Departmental Fees and Charges Program for the City of San José. (City Manager’s Office)

Documents Filed: (1) Proof of Publication of Notice of Public Hearing, executed on May 4, 2005 submitted by the City Clerk. (2) Petition of 142 names urging Council to keep the Libraries open on Mondays and closed on Sundays. (3) Petition of 83 names urging Council to keep Alma Community Center open.

3.4 (Cont'd.)

Action: Mayor Gonzales opened the Public Hearing. Edward Rosette, Sr. spoke in support of the Police Activity League (PAL) program.

Joan Schuller, Young Peoples Theatre, requested that this program remain; Kevin Marks presented a video tape of the Young Peoples Theatre, urging Council to keep the program open.

Jean La Marca, Herman Intermediate School, requested that the Challenges and Choices Program remain.

Helen Hahn, stated the Libraries should not be facing reduced services and hours. Sue Williams, Trixie Johnson, David Cohen, Sandra Aguilar, Vince Tarpey, Carmen Avila and Brian Cong Do requested that Monday hours remain for the Libraries.

Carol Hunter stated that the one educator position should remain at the Emma Prusch Farm Park.

Lari Prudhomme and Ronald Layman asked that Council consider moving the Office on Aging to the Old City Hall after the move. Ron Schwartz asked that the senior citizens are remembered as Council decides on the budget.

Lisa Feldberg asked for Wednesday and Thursday to be full service days at the Libraries. Wilma Hashii, Friends of Santa Teresa Library, asked for open libraries on Monday, Wednesdays and Thursdays, in lieu of Sundays

Marilou Cristina, Senior Commission, urged Council to approve the HNMF committee for the Senior nutrition.

Mary Guzman, Ray Silva, Gloria Enriquez, Julian Robes, Debbie Morillo, Rose Pereida, Mireya Molina, Elaine and Liz Nieto urged the Council to keep the Alma Center open.

Michael Antonopoulos, San José Youth Commission, encouraged the Council to maintain the youth intervention.

Sylvia Lowe expressed concern about Overfelt Gardens and the potential closing of the bathrooms. Linda Nguyen urged Council to save the community centers.

Susan Espinoza requested that the hose wagon and fire tender remain at Station 6. Jim Spence urged Council to maintain fire service in Willow Glen. Sheri Busansky requested that the Fire and Public Safety Training Specialist position remain.

Mayor Gonzales closed the Public Hearing.

**3.5 Adoption of a resolution of the City of San José recognizing the Vietnamese Heritage and Freedom Flag as the official symbol of the Vietnamese-American community of San José. (Cortese)
(Rules Committee referral 5/4/05)**

Documents Filed: (1) Memorandum from Mayor Gonzales, Vice Mayor Chavez, Council Members Reed, Cortese and Pyle, dated May 17, 2004, recommending adoption of the resolution. (2) Memorandum from City Clerk Lee Price, dated May 5, 2005, transmitting a request from Council Member Cortese. (3) Letter from Vietnamese American Council of Voters, dated May 18, 2005, thanking the City Council for passing the resolution.

This item was heard concurrent with Item 3.6.

Motion: Council Member Reed moved approval of the memorandum he cosigned with Mayor Gonzales, Vice Mayor Chavez, and Council Members Reed, Cortese and Pyle. Council Member Cortese seconded the motion.

Public Comment: Speaking in support of the adoption of the resolution were: Madison Nguyen, Tiep Van Ngo, Linda Nguyen, Chau Le, Hai Nguyen, Cuu V. Le, Tho Le, Luc Nguyen, Dan Nguyen, Tran Coy Huen, My Phuong Le, Yen Tran, Diep Nguyen, Tri Cao, Thomas Nguyen, Dan Hoang, Lou Nguyen, Dang Ngoc Thi, Cuong Dang, Ann Mai, David Le, Can Nguyen, Sam Ho, and Tri Cao.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72679, entitled: “A Resolution of the Council of the City of San José Recognizing the Vietnamese Heritage and Freedom Flag as the Official Symbol of the Vietnamese-American Community of San José”, was adopted. (9-0-1. Absent: Chavez.)

3.6 That Council support Senate Concurrent Resolution 17 (Ducheny) which would urge that the State formally recognize the flag of the former Republic of Vietnam as the symbolic flag of the Vietnamese-American community in this State. (Reed)

Documents Filed: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated May 5, 2005, recommending Council support of Resolution 17 (Ducheny).

Action: Heard concurrent with Item 3.5 above.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 (a) Approval to appoint members to the Specific Plan Task Force. (Mayor/Campos/Council District 7)**
(b) Council discussion on policy issues, desired outcomes and guidelines for discussion within Specific Plan process.
**(c) Approval to initiate an update to the Evergreen Development Policy and associated General Plan text. (Planning, Building and Code Enforcement)
(Referred from 4/19/05 – Item 4.7 and deferred from 5/3/05 – Item 4.5)**

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated April 29, 2005, recommending this item not be deferred. (2) Memorandum from Mayor Gonzales, dated May 16, 2005, transmitting additional information. (3) Memorandum from Mayor Gonzales, and Council Members Campos and Yeager, dated April 29, 2005, recommending Council adopt additional steps as indicated in "Action". (4) Memorandum from Mayor Gonzales, and Council Members Campos and Yeager, dated May 13, 2005, recommending adopting steps outlined in memorandum of April 29, 2005, and additional items as indicated in "Action". (5) Memorandum from Council Member Cortese, dated April 29, 2005, recommending deferral of this item. (6) Memorandum from Council Member Cortese, dated May 17, 2005, transmitting additional information. (7) Two letters from members of the Public, dated May 17, 2005.

Motion: Council Member Campos moved approval of the memoranda she cosigned with Mayor Gonzales, and Council Member Yeager, dated April 29, 2005 and May 13, 2005. Council Member Yeager seconded the motion.

Public Comment: Speaking against the motion and urging the Council to allow the current Evergreen Visioning Project Task Force to continue their work: Jose Aranda, Mark Milioto, Avelino Leghspi, John Truitt, Danny Gould, Lori Truitt, Isaiah White, Nick Leon, Garth Cummings, Scott Karstetter, Bill Ashman, Carol Ashman, Terry Gotcher, Penny Aguila, Grace Red, Steve Bennette, Rodger Cryer, Sylvia Alvarez, Bob Gill, Cynthia Schisler, Don Connong, Daniel McCallum, Mel Dutra, Elisa Wells, Debra Murphy, Vince Songcayawon, Paul Robichaux, Patrick Hendry, Christina Lofink, Jenny Chang, Chris Dieter, Douglas Lee, David Zenker, Tom Andrade, Jim Zito, Mike Alvarado, Alan Covington, Miranda Lee, Sam Ho, Long Chen, Homing Yip, Gordon Lund, Tom Paramu, Brenda Serpa, Maria Lopez, Lou Kvitek, Sarafina Garcia and Mike Ivey.

Speaking in support of the motion were: Rhonda Garcia, Lila DeLong, Steve Dunn, Chris Corpus, Ellie Glass and Shawna Sanders,

John Perrotta encouraged the Council to include representatives from the residents in the adjacent incorporated area of the County.

Substitute Motion: Council Member Cortese moved approval of the memorandum dated May 13, 2005, directing Staff to prepare an agenda and all necessary background materials for the proposed study session; and in addition, to move forward the recommendation #1, 3, 5 and 6 outlined in the Joint Memorandum dated April 29, 2005. Council Member LeZotte seconded the motion.

On a call for the question, the substitution motion failed. (2-7-1. Noes: Campos, Chirco, Pyle, Reed, Williams, Yeager; Gonzales. Absent: Chavez.)

4.3 (Cont'd.)

Action: On a call for the question, the original motion carried, and (1) Adopted the following steps as outlined in a joint memorandum dated April 29, 2005, from Mayor Gonzales, Council Members Campos and Yeager: (a) The Evergreen Visioning Project (EVP) Task Force shall continue to serve in an advisory capacity to Council Member Cortese; (b) The Council shall convene a Task Force with Citywide representation to serve in an advisory capacity to the Council on the broader policy issues arising from the Evergreen planning development process. Council Member Cortese will serve as Chair of the Task Force and it will include fourteen EVP members appointed by Council Member Cortese; (c) Planning Staff to develop a work plan and return with recommendations to the City Council within 30 days; (d) Policy issues for the City Council to discuss at the Study Session will include: industrial conversion, affordable housing, community amenities, development characters, and funding strategies; (e) At the conclusion of the Study Session, initiate an update to the Evergreen Area Development Policy and associated General Plan text amendments; (f) Direct the new Task Force to include the following elements as part of its review: environmental review, infrastructure analysis and plans, land use and circulation plans, public facilities plans, affordable housing and financing plans. (2) Approved a joint memorandum from Mayor Gonzales, Council Members Campos and Yeager, dated May 13, 2005, directing the City Manager to: (a) Schedule a half-day Study Session to be held within three weeks of the adoption of this memorandum; (b) Prepare an agenda and all necessary background materials for the Study Session using the April 29, 2005 memorandum as a guide for the necessary policy discussions and include a role for stakeholder participation. (3) The work of the Evergreen Visioning Project Task Force was recognized, and the Task Force was invited to continue to participate in the process. (7-2-1. Noes: Cortese, LeZotte. Absent: Chavez.)

PUBLIC HEARINGS

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Reed, seconded by Council Member Chirco, and carried unanimously, the below noted continuances were granted. (9-0-1. Absent: Chavez.)

- 11.1 Public Hearing and consideration of an ordinance on Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of Younger Avenue and North 6th Street (257 E. Younger Ave.) (Roy Family Partnership, Owner). Director of Planning, Building and Code Enforcement recommend denial and Planning Commission forwards no recommendation (3-3-1). CEQA: Resolution No. 65459.**

C04-102 – District 3

(Continued from 5/3/05 – Item 11.2)

Action: Continued to June 7, 2005.

- 11.2 Public Hearing on and consideration of approval of an ordinance amending Chapter 20.100 of Title 20 of the San José Municipal code to allow subdivisions to be approved with other development permits and approvals as part of a single process. CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

Documents Filed: (1) Memorandum from Planning Commission Secretary Stephen Haase, dated April 28, 2005, transmitting the Planning Commission recommendation. (2) Proof of Publication of Notice of Public Hearing, executed on April 15, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing, and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27440, entitled: “An Ordinance of the City of San José Amending Section 20.100.140 of Chapter 20.100 of Title 20 of the San José Municipal Code to Allow Subdivisions To Be Approved with Other Development Permits and Approvals As A Part of An Unified Process”, was passed for publication. (9-0-1. Absent: Chavez.)

11.3 Public Hearing on and consideration of approval of an ordinance amending Chapters 20.70 and 20.80 of Title 20 of the San José Municipal Code to: Streamline the permitting process for temporary outdoor events in private property in the Downtown Core; Allow live/work uses as a permitted use in the Downtown Core; Amend the boundaries of the DG Downtown Ground Floor space overlay area; and amend the Downtown off street loading requirements. CEQA: Exempt, PP05-088. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

Documents Filed: (1) Memorandum from Planning Commission Secretary Stephen Haase, dated May 12, 2005, transmitting the Planning Commission recommendation. (2) Proofs of Publications of Notices of Public Hearings, executed on April 29, 2005 and May 11, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing, and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27441, entitled: “An Ordinance of the City of San José Amending Sections of and Adding a Section to Chapter 20.70 of Title 20 of the San José Municipal Code, the Downtown Zoning Regulations, To Allow Live/Work Units as Permitted Use in the Downtown Core, To Modify the Downtown Off-Street Loading Requirements, and To Amend the Boundaries of the Downtown Ground Floor Space Overlay Area; and Amending Section 20.80.1420 of Chapter 20.80 of Title 20 of the San José Municipal Code to Streamline the Permitting Process for Temporary Outdoor Events in the Downtown Core”, was passed for publication. (9-0-1. Absent: Chavez.)

11.4 Public hearing on adoption of a resolution initiating proceedings, and setting a public hearing on June 21, 2005 at 7:00 p.m. on the reorganization of territory designated as McKee No. 127 which involves the annexation to the City of San José of 4.79 gross acres of land located at the north side of McKee Road approximately 380 feet easterly of Toyon Avenue and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Exempt. Council District 5. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 27, 2005, recommending adoption of resolution for a Public Hearing. (2) Proof of Publication of Notice of Public Hearing, executed on April 27, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing.

11.4 (Cont'd.)

Robert Reek, a property owner at McKee Road, requested the record to show that he is a private homeowner and not a developer. Director of Planning, Building and Code Enforcement Stephen Haase was instructed to work with Mr. Reek regarding the impact of the fees for his property.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, Resolution No. 72680, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKee No. 127 and Described Herein, and Giving Notice of Hearing on the Proposed Reorganization and Written Protests", was adopted. (9-0-1. Absent: Chavez.)

11.5 **Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from County to R-1-8 Residence District to allow residential uses on a 0.31 gross acre site, located on the northwest corner of Wilbur Avenue and Nancy Lane (2875 Wilbur Ave.) (Bui Christopher J., Owner). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C05-023 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-023, dated April 26, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on May 6, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27442, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Wilbur Avenue and Nancy Lane (2875 Wilbur Avenue) to R-1-8 Residential Zoning District", was passed for publication. (9-0-1. Absent: Chavez.)

11.6 **Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from County to R-1-8 Resident District to allow residential uses on a 0.83 gross acre site, located on the west side of Toyon Avenue, approximately 370 feet south of Selby Lane. (Dupree, Daniel A and Rolly C, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C05-024 - District 5

11.6 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-024, dated April 26, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on May 6, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Yeager, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27443, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Toyon Avenue Approximately 370 Feet South of Selby Lane to R-1-8 Residential Zoning District", was passed for publication. (9-0-1. Absent: Chavez.)

11.7 **Public Hearing on and consideration of approval of an ordinance on Planned Development rezoning from R-M Residential District to A(PD) Planned Development District to allow two single-family attached residences on a 0.16 gross acre site, located on the west side of Revey Avenue, approximately 100 feet northerly of Bailey Avenue. (Kwok, Stephen P and Alice A Trustee, Behrouzian, Behrouz and Parivash, et al., Owner). SNI: Burbank/Del Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC04-103 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-103, dated April 20, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated April 28, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on April 15, 2005, and April 24, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27444, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Revey Avenue Approximately 100 Feet Northerly of Bailey Avenue to A(PD) Planned Development Zoning District", was passed for publication. (9-0-1. Absent: Chavez.)

- 11.8 Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning from R-1-8(PD) Planned Development District to R-1-8 Residence District on a 0.144 gross acre site, located on the south side of Bacchus Drive approximately 150 feet easterly of McLaughlin Avenue (1166 Bacchus Drive) (Peter and Anhhong Hoang, Owners). SNI: Tully/Senter. CEQA: Resolution No. 65469. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C05-021 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-024, dated April 27, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on May 6, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing.

Peter Hoang, the owner or the property, was available for questions.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27445, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Bacchus Drive (1166 Bacchus Drive) From R-1-8 (PD) Planned Development Zoning District to R-1-8 Residence Zoning District", was passed for publication. (9-0-1. Absent: Chavez.)

- 11.9 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development to allow night club uses at an existing assembly hall (G.I. Forum) on a 3.4 gross acre site, located 900 feet northerly of Story Road and approximately 2,300 feet westerly of McLaughlin Avenue (765 Story Road) (The American G.I. Forum, Owner).
PDC00-30 - District 7**

Action: Dropped, to be renoticed.

- 11.10 (a) Public Hearing on and reconsideration of approval of an Ordinance adopted on March 16, 2004 by the City Council for a Planned Development Rezoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to seven single-family detached residential units and possible ratification of same. (San José Conservation Corps/Ken Fuller, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC03-088 - District 9**
- (b) Public Hearing on and reconsideration of approval of a Planned Development Permit by the Director of Planning on November 19, 2004, to construct seven single-family detached residences and possible ratification of same (12385 Blossom Hill Rd.). (San José Conservation Corps/Ken Fuller, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PD04-034 - District 9**

Documents Filed: (1) Memorandum from Council Member Chirco, dated May 16, 2005, recommending approval of the Staff recommendation with additional direction as indicated in "Action". (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-034, dated March 3, 2004, recommending approval on the subject property. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 3, 2005, transmitting the Planning Commission recommendation of the subject property. (4) Memorandum from Planning Commission Secretary Stephen Haase, dated April 25, 2005, regarding the oversight which occurred during the processing. (4) Memorandum from Planning Commission Secretary Stephen Haase, dated April 29, 2005, transmitting additional information. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 12, 2005, providing additional information on potential staff-recommended changes. (6) Proofs of Publications of Notice of Public Hearing, executed on April 22, 2005, and May 1, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Speaking in support to the Staff recommendation were Jaron Osborn, Sandra Quintero, John Dyer, Mark Lazzarini, and Bob Hennessy. Speaking in opposition to the project were Lisa McCrary, Larry McDonough, Jeanne Schwab, and Gary O'Neil. Ms. McCrary and Ms. Schwab also mentioned that they had not received proper notice.

Mayor Gonzales closed the public hearing.

Council Member Chirco asked how Planning will correct the outreach problem. Director of Planning, Building and Code Enforcement Stephen Haase replied Staff has looked to improve the automation mailings, and will go out to check addresses. He added that an actual sign will be posted on the property.

11.10 (a) (b) (Cont'd.)

Motion: Council Member Chirco moved her memorandum dated May 16, 2005. Council Member Pyle seconded the motion.

Council Member Chirco observed that the project will add seven new affordable homes, and suggested that traffic impact will be minimal. She added that there will be parking restrictions imposed because of Pioneer High School.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27446 was passed for publication, with Staff directed to ratify the Planned Development Rezoning and Planned Development Permit, including: (1) Ensuring modifications to the proposed site and landscape plan include additional parking stalls, enhanced landscaping and fencing (see Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 16, 2005), and; (2) Further direction to the Department of Transportation Staff to evaluate the existing parking conditions in the project area and consider potential solutions; and the Planned Development Permit was approved. (9-0-1. Absent: Chavez.)

OPEN FORUM

- (1) Daniel McCall expressed his own personal views of medical marijuana.
- (2) Patrick Pizzo urged the Council to vocalize their support of full funding of education for Proposition 98 and place a high priority on property use, which will attract families to the City of San José.

ADJOURNMENT

The Council of the City of San José was adjourned at 12:07 a.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/5-17-05min